

expired 8/2/2014

GAS FRANCHISE ORDINANCE

ORDINANCE NO. 6465-26

AN ORDINANCE GRANTING THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO ILLINOIS POWER COMPANY, AN ILLINOIS CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, EXTEND, MAINTAIN, REPAIR, REPLACE, OPERATE AND REMOVE IN THE CITY OF URBANA, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, A SYSTEM FOR THE MANUFACTURE, TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL OR ARTIFICIAL GAS OR A MIXTURE THEREOF, FOR LIGHTING, HEATING, POWER AND ANY OTHER PURPOSES FOR WHICH GAS MAY BE USED.

WHEREAS, ILLINOIS POWER COMPANY, an Illinois Corporation, hereinafter also designated as "Grantee", has petitioned the CITY COUNCIL of the CITY OF URBANA, hereinafter also designated as "Municipality", asking that the franchise, right, privilege and authority be granted to it, its successors and assigns, by ordinance, to construct, extend, maintain, repair, replace, operate and remove a system for the manufacture, transmission, distribution and sale of natural or artificial gas or a mixture thereof, for lighting, heating, power and any other purposes for which gas may be used in said Municipality, and

WHEREAS, said Grantee has duly complied with all provisions of the laws of the State of Illinois, and with all ordinances of said Municipality with reference to the obtaining of such franchise, right, privilege and authority:

NOW, THEREFORE, BE IT ORDAINED by the CITY COUNCIL of the CITY OF URBANA, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS:

1. That in consideration of the benefits to Municipality to be derived from the installation and operation of a gas distributing system in the CITY OF URBANA, a Municipal Corporation organized and existing under and by virtue of the laws of the State of Illinois, the franchise, right, permission and authority be, and the same are hereby, granted to said Grantee, to construct, extend, maintain, repair, replace, operate and remove a system for the manufacture, transmission, distribution and sale of natural or artificial gas or a mixture thereof, to Municipality, its inhabitants, and others, for lighting, heating, power and any other purposes for which gas may be used. The Grantee may construct, extend, maintain, repair, replace, operate and remove all necessary plants, works, mains, services, conduits, pipes, pits, tanks and apparatus necessary or convenient for such system in, upon, over, across, along

and under each and all of the streets, roads, alleys, avenues, bridges, parkways and other public places, in said Municipality as they may at any time exist, subject to the conditions and regulations hereinafter set forth.

2. That all plants, works, mains, services, conduits, pipes, pits, tanks, and apparatus erected, installed or placed under this grant shall be located in parkways or alleys whenever practicable so to do, and shall be so located, whether in roads, streets, alleys, avenues, bridges, parkways or other public places as not to interfere unnecessarily with the use of such streets, roads, alleys, avenues, bridges, parkways or other public places, and shall be constructed and placed under the supervision of the Committee on Streets and Alleys of said Municipality or under such supervision as said Municipality may from time to time provide. All gas mains installed under this Ordinance shall be so located as not to injure unnecessarily any pavements, drains, sewers, catch basins, water pipes, or other like improvements, but should any pavement or any drain, sewer, catch-basin, water pipe, or other like improvement be injured by such location, said Grantee shall forthwith repair the damage caused and restore said pavement, drain, sewer, catch basin, water pipe or other like improvement to as good condition as existed prior to undertaking such work.
3. That when any street, road, avenue, alley, bridge, parkway or public place, upon, under or in which any plants, works, pipes, mains, services, conduits, pits, or tanks of said Grantee have been placed, shall be graded, curbed, paved, or otherwise changed so as to make the resetting or reconstruction of such plants, works, pipes, mains, services, conduits, pits and tanks necessary, said Grantee, its successors or assigns, shall make such necessary change in construction in a reasonable time after receiving written notice from the authorized representative of the Municipality. Should it become necessary or should the Grantee desire to extend from time to time its pipes or other facilities, Grantee shall make application to the Municipality for the establishment of permanent grades and Grantee shall not be required to install such pipes or other facilities until such permanent grades have been established. The Municipality shall establish promptly such permanent grades upon such application.
4. That Grantee shall have the right, also, for the purpose of supplying gas to residents of said Municipality and in the vicinity thereof, to lay and maintain gas mains or pipe lines for the procuring of gas from source outside said Municipality and also for the transmission of gas for supplying of persons outside of and beyond the limits of said Municipality.
5. That Grantee shall make extension of its mains from time to time and install services as required to serve persons making application therefor, in accordance with the rules and requirements on file with and approved by the Illinois Commerce Commission.
6. That the rates to be charged by said Grantee and the rules and regulations governing the furnishing of services to inhabitants of said Municipality under this Ordinance shall be in accordance with those authorized by and on file with the Illinois Commerce Commission or other public authority having jurisdiction in the premises.
7. That the quality of gas distributed under this Ordinance shall be of such standard as to heating value, pressure and purity

as to conform to standards fixed by the Illinois Commerce Commission or other public authority having jurisdiction in the premises.

8. That the pipes and other facilities, placed in the streets and public places in said Municipality, shall be exempt from any special tax, assessment, license or rental charge during the entire term of this Ordinance.
9. That the franchise and all rights and privileges granted by this Ordinance are granted for a term of Fifty (50) years from and after the date of acceptance of this Ordinance by Grantee as hereinafter provided.
10. That Grantee, in the construction, maintenance and operation of its gas distribution lines, mains and systems, shall use all reasonable and proper precaution to avoid damage or injury to persons and property and shall hold and save harmless Municipality from any and all damages, injuries or expenses caused by the sole negligence of said Grantee or its agents, servants or employees.
11. That Grantee, provided it shall not be required to increase or extend its gas facilities solely for such purposes; that a sufficient supply of gas is generally available for commercial space heating purposes within the limits of the Municipality; and further, that Municipality has installed the necessary heating equipment for utilization thereof; as further consideration for the right, permission and authority granted under provisions of this Ordinance, agrees to furnish free of charge during each calendar year gas service reasonably required for space heating purposes at the present municipal buildings in the aggregate but not to exceed 85,000 therms of gas during each calendar year or any prorated portion thereof; provided that Municipality shall pay to Grantee for any gas service furnished in excess of 85,000 therms during each such calendar year at the regular rate or rates pursuant to applicable schedules and rules and regulations of Grantee on file with the Illinois Commerce Commission and effective from time to time; and

In the event Municipality shall undertake any remodeling, additions, extensions or alterations to presently existing Municipal buildings, or shall undertake the construction of other Municipal buildings at other locations, provided, however, that any such buildings are non-revenue producing and are used exclusively for municipal purposes, and that natural gas service is available for space heating purposes within the Municipality in accordance with the rules and regulations of the Company filed with and approved by the Illinois Commerce Commission at the time during the continuance hereof, Grantee further agrees to furnish, as additional franchise consideration, gas service reasonably required for space heating such buildings in an amount which shall be mutually agreed upon; provided that Grantee shall not be required to extend its gas distribution system solely for such purpose in any case, and that Grantee shall not be required at any time to provide aggregate free gas service to Municipality under this Ordinance upon an annual basis in excess of three (3) therms per capita of Municipality, as determined by the latest official census.

12. That a certain ordinance entitled, "AN ORDINANCE, GRANTING THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO ILLINOIS POWER COMPANY, AN ILLINOIS CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, EXTEND, MAINTAIN, REPAIR, REPLACE, OPERATE AND REMOVE IN THE CITY OF URBANA, COUNTY OF CHAMPAIGN,

STATE OF ILLINOIS, A SYSTEM FOR THE MANUFACTURE, TRANSMISSION, DISTRIBUTION AND SALE OF NATURAL OR ARTIFICIAL GAS OR A MIXTURE THEREOF, FOR LIGHTING, HEATING, POWER AND ANY OTHER PURPOSES FOR WHICH GAS MAY BE USED", passed by the City Council of said City of Urbana, County of Champaign, State of Illinois, the 18th day of June, A.D. 1956, and approved by the Mayor of said City of Urbana, Illinois on the 18th day of June, A.D. 1956; and a certain Amending Ordinance entitled, "AN ORDINANCE AMENDING A GAS FRANCHISE ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, ON THE 18TH DAY OF JUNE, 1956, AND APPROVED BY THE MAYOR OF SAID CITY ON THE 18TH DAY OF JUNE, 1956," passed by the City Council of said City of Urbana, County of Champaign, State of Illinois, on the 2nd day of June, A.D. 1958, and approved by the Mayor of said City of Urbana, Illinois, on the 2nd day of June, 1958, be and the same are hereby repealed and are in no further force and effect.

13. That after the passage and approval of this Ordinance and within sixty (60) days after such approval, this Ordinance shall be accepted by said Grantee by its filing with the Clerk of said Municipality, an unconditional written acceptance thereof. Failure of said Grantee to so accept this Ordinance within said period of time shall be deemed a rejection thereof by said Grantee, and the rights and privileges herein granted shall, after the expiration of said period of sixty (60) days, if not so accepted, absolutely cease and determine, unless said period of time shall be extended by Ordinance duly passed for that purpose.
14. That all provisions of this Ordinance which are obligatory upon or which inure to the benefit of said ILLINOIS POWER COMPANY, shall also be obligatory upon and shall inure to the benefit of all successors and assigns of said ILLINOIS POWER COMPANY and the word "Grantee" wherever used in this Ordinance shall include and be taken to mean not only ILLINOIS POWER COMPANY, but all successors and assigns of said ILLINOIS POWER COMPANY.

PASSED by the CITY COUNCIL of said CITY OF URBANA, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, this 3rd day of August A.D., 1964.

APPROVED by the MAYOR of said CITY OF URBANA, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, this 3rd day of August, A.D., 1964.

Stanley B. Deaves
Mayor

(SEAL)

ATTEST:

Ben M. Holmes
City Clerk